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09/917,253	07/27/2001	Quang X. Pham	MYDRUP.001A	7817
20995	7590	03/03/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			NAJARIAN, LENA	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3626	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/917,253

**Applicant(s)**

PHAM ET AL.

**Examiner**

Lena Najarian

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20010727</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-10 recite elements that appear to be software modules or computer programs. The current claim language does not clarify that a computer processor or structure is part of the recited system or that the recited elements (i.e. the modules) are embodied and executable on a computer readable medium.

Data structures not embodied on a computer readable media are considered descriptive material. They are therefore considered non-statutory because they are not capable of causing a functional change in a computer. As drafted, the claims fail to define any structural and functional interrelationships between the software modules and other elements of a computer that permit the computer program's function to be realized. (See MPEP § 2106)

For a claimed invention to be statutory, the claimed invention must also produce a useful, concrete, and tangible result. Under this analysis, the present language of claims 1-10 merely recite non-functional descriptive material, as no recitation of executable code being embodied on any medium or data structure is provided. Simply stated, the "module" as recited in claims 1-10 fails to have a tangible result.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Bhan et al. (US 2001/0032125 A1).

(A) Referring to claim 19, Bhan discloses a method comprising hosting interactive presentations related to prescription pharmaceuticals, accumulating user responses to the interactive presentations, presenting data related to accumulated user responses to drug companies sponsoring the interactive presentations, and providing honoraria to users in exchange for participation in the interactive presentations (para. 14, para. 12, para. 13, and para. 60 of Bhan).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhan et al. (US 2001/0032125 A1) in view of Wecker et al. (US 6,256,614 B1).

(A) Referring to claim 1, Bhan discloses a system for providing pharmaceutical information to physicians, the system comprising (see abstract and para. 12 of Bhan):

a presentation hosting module configured to present a plurality of interactive presentations to users, wherein each presentation is related to a prescription drug (para. 14 and para. 12 of Bhan); and

a data accumulation module configured to accumulate user responses to the interactive presentations (para. 14 and para. 60 of Bhan).

Bhan does not expressly disclose a physician authentication module configured to authenticate that a user is a registered physician.

Wecker discloses a physician authentication module configured to authenticate that a user is a registered physician (col. 3, lines 18-21 of Wecker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Wecker within Bhan. The motivation for doing so would have been to verify whether a user is a physician (col. 3, lines 18-21 of Wecker).

(B) Referring to claim 2, Bhan discloses a presentation storage module storing the plurality of interactive presentations (para. 55 of Bhan).

(C) Referring to claim 3, Bhan discloses an honorarium module configured to provide honoraria to users to whom interactive presentations have been presented (para. 13 of Bhan).

(D) Referring to claim 4, Bhan discloses wherein the honorarium module is further configured to provide honoraria only to selected users to whom interactive presentations have been presented (para. 54 of Bhan).

(E) Referring to claim 5, Bhan discloses wherein the honorarium module is configured to verify that a user has responded to questions presented in one of the interactive presentations before providing an honorarium (para. 14 of Bhan).

(F) Referring to claim 6, Bhan discloses wherein the honorarium module is further configured to verify that a user has completed participation in one of the interactive presentations before providing an honorarium (para. 13 of Bhan).

(G) Referring to claim 7, Bhan discloses a reporting module configured to provide data related to users that have viewed presentations (para. 60 of Bhan).

(H) Referring to claim 8, Bhan discloses that data from the process is collected and tracked in marketing database (para. 60 of Bhan). Bhan and Wecker do not expressly disclose wherein the data related to users that have viewed presentations comprise a number of users to which a presentation has been presented.

However, it would have been obvious to a person of ordinary skill in the art to modify Bhan to include the number of users to which a presentation has been presented with the motivation of determining the success of a given program and which types of products interest participants.

(I) Referring to claim 9, Bhan discloses wherein the data related to users that have viewed presentations comprise names of users to which a presentation has been presented (para. 41 and para. 53 of Bhan).

(J) Referring to claim 10, Bhan discloses wherein the data related to users that have viewed presentations comprise responses by the users to the presentations (para. 14 and para. 46 of Bhan).

(K) Referring to claim 11, Bhan discloses a method for providing information related to pharmaceuticals to physicians, the method comprising (abstract and para. 12 of Bhan):

(a) inviting a user to access a system configured to provide the information related to pharmaceuticals (para. 13 of Bhan);

(c) through the system, presenting information related to a pharmaceutical to the user (para. 14 and para. 12 of Bhan);

(d) through the system, prompting the user to provide input confirming the user's comprehension of at least a portion of the presented information (para. 13 and para. 14 of Bhan); and

(e) through the system, receiving input provided by the user in response to (d) (para. 14 and Fig. 7 of Bhan).

Bhan does not expressly disclose (b) through the system, authenticating that the user is a physician.

Wecker discloses through the system, authenticating that the user is a physician (col. 3, lines 18-21 of Wecker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Wecker within Bhan. The motivation for doing so would have been to verify whether a user is a physician (col. 3, lines 18-21 of Wecker).

(L) Referring to claim 12, Bhan discloses through the system, providing an honorarium to the user in response to at least (e) (para. 13 of Bhan).

(M) Referring to claim 13, Bhan discloses wherein the honorarium is a credit that can be redeemed at an on-line vendor (para. 13 of Bhan).

(N) Referring to claim 14, Bhan discloses wherein the honorarium is provided only to targeted users (para. 32 of Bhan).

(O) Referring to claim 15, Bhan discloses receiving value from a pharmaceutical company in exchange for performing at least (b), (c), (d), and (e) (para. 11 of Bhan).

(P) Referring to claim 16, Bhan discloses performing (a), (b), (c), (d), and (e) with respect to a plurality of users; and accumulating input provided by the plurality of users in response to (e) (para. 60 of Bhan).

(Q) Referring to claim 17, Bhan discloses maintaining statistics relating to accumulated input provided by the plurality of users (para. 60 of Bhan).

(R) Referring to claim 18, Bhan discloses providing the statistics to at least one pharmaceutical company (para. 60 of Bhan).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a pharmaceutical marketing device and system (5,799,981) and a medical practitioner credentialing system (6,035,276).



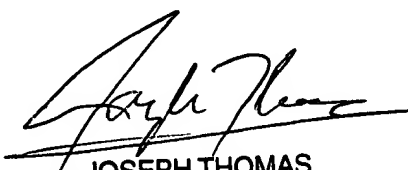
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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In  
11-22-05

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER